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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,756	09/29/2000	Andrew J. Kuzma	042390.P9327	2826

7590

06/21/2004

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EXAMINER

EDELMAN, BRADLEY E

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 06/21/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/675,756

Applicant(s)

KUZMA, ANDREW J.

Examiner

Bradley Edelman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-8, 10-16, 18-36, 38-41, 43-46, 49, 50, 52, 54-56, 58-61, 63-70, 72 and 78-80 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 29 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Continuation of Disposition of Claims: Claims pending in the application are 1-8,10-16,18-36,38-41,43-46,49,50,52,54-56,58,61,63-70,72 and 78-80.

DETAILED ACTION

This Office action is in response to Applicant's amendment and request for reconsideration filed on April 6, 2004. Claims 1-8, 10-16, 18-36, 38-41, 43-46, 49, 50, 52, 54-56, 58-61, 63-70, 72, and 78-80 are presented for examination.

Specification

1. Claims 8, 26, and 30 are objected to because of the following informalities:

In considering claims 8 and 26, it appears that the word "comprises" should read "comprising."

In considering claim 30, it appears that the word "corresponding" should read "correspond."

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-20, 43-45, 55, and 63-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In considering claim 1, the term "the viewer" on lines 2-3 of the claim lacks sufficient antecedent basis. Furthermore, the clause "in response to a viewer requesting the content, selecting one of the servers to receive and to transmit the

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content from the selected server to the viewer via network” is confusing and ambiguous. Notably the reference to “the selected server” as part of the limitation of “selecting one of the servers” is circular logic and does not make sense as stated.

Claims 2-20 depend from claim 1 and are thus rejected as well.

In further considering claim 7, claim 7 is ambiguous because the phrase “receiving the information” lacks sufficient antecedent basis. There is no step recited in claim 1 regarding “receiving information.”

In further considering claim 10, claim 10 is rejected because it depends from claim 9, which has been canceled. Therefore, claim 10 lacks sufficient antecedent basis.

In considering claims 43-45 and 63-66, these claims also depend from a canceled claim (claim 42 and 62 respectively) and are thus rejected as well.

In considering claim 55, the term “comprising sender to send the text file” is ambiguous as it stands. It appears the phrase should read “comprising sending the text file.”

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 6, 7, 11, 13-16, and 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Masters (U.S. Patent No. 6,374,300).

Regarding claim 1, the phrase "the viewer" on lines 2-3 is interpreted as meaning "a viewer." In addition, the phrase "in response to a viewer requesting the content, selecting one of the servers to receive and to transmit the content from the selected server" is interpreted as meaning "in response to a viewer requesting the content, selecting one of the servers to receive the request, and transmitting the content from the selected server."

In considering claim 1, Masters discloses a method comprising:

Registering information, including a preferred order of servers for routing content to the viewer (col. 7, lines 17-38, wherein a "cookie" is registered and includes a preferred address of the primary server that is to route the content to the viewer);

In response to a viewer requesting the content, selecting one of the servers to receive the request, and transmitting the content from the selected server to the viewer via a network (col. 8, lines 18-27, wherein the user uses the cookie to instruct the server array controller to select the primary server, and the primary server returns a response).

In considering claim 2, Masters further discloses that registering of the information is conducted by the viewer and comprises registering information to a

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service provider (col. 5, lines 49-53, wherein the service is necessarily provided by a service provider).

In considering claim 6, Masters further discloses receiving a registration number from the service provider, the registration number being provided by the viewer when requesting content ("user identification number"; col. 5, lines 50-52).

In considering claim 7, Masters further discloses that receiving the information includes gathering one of a local information and a viewer location (col. 7, lines 18-25, wherein the response with a cookie is from a local ISP, and therefore includes local information).

In considering claim 11, Masters further discloses updating the information ("rewriting" the cookie; col. 11, lines 41-44).

In considering claim 13, Masters further discloses storing a server location at a viewer location (server URL is stored in the cookie, which is stored at the client; col. 5, lines 38-45).

In considering claim 14, Masters further discloses storing the information in a text file ("cookie") the information being given to a browser by the server (col. 7, line 63 –

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col. 8, line 8, wherein the cookie is inherently given to the browser in the HTTP response).

In considering claim 15, Masters further discloses sending the text file to the server when a page is requested from the server (col. 8, lines 16-19).

In considering claim 16, Masters further discloses that the text file is a cookie identifying the viewer ("cookie" with a "user identification number"; col. 5, lines 49-53).

In considering claim 18, Masters further discloses that the network is a LAN or WAN ("Internet").

In considering claim 19, Masters further discloses that the network is a network indicating a type of a connection ("TCP/IP"; col. 7, lines 5-6).

In considering claim 20, Masters further discloses the use of a dial up modem as the type of network connection ("telephone modem," col. 6, line 41).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-27, 29-31, 33-36, 38-41, 43-46, 49-50, 54-56, 58-61, 63-66, 69-70, and 78-80 are rejected under 35 U.S.C. 103(a) as being anticipated by Masters.

In considering claim 21, Masters discloses a computer program product comprising:

A machine usable medium having computer program code embedded therein, the computer program product having:

Computer readable program code for receiving information, from a viewer requesting HTTP information, identifying a plurality of servers to route the HTTP information to the viewer (col. 8, lines 16-18, wherein the HTTP request identifies the server array controller of multiple servers, and therefore identifies the group of servers); and

Computer readable program code for transmitting the HTTP information from the selected server to a viewer via a network (col. 8, lines 25-28).

However, Masters remains silent regarding the type of HTTP information that is requested by the viewer, and thus does not explicitly state that the HTTP information constitutes multimedia information. Nonetheless, Masters does disclose that the distribution of multimedia information over the Internet is well known. Masters suggests that the load balancing features of the invention can be used for multimedia content (col. 1, lines 14-17, "Generally, it has proven difficult to reliably and efficiently load balance the demand for access to resources, e.g., a web-based application, email and streamed multimedia data, on a wide area network"). Given this knowledge, a person

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having ordinary skill in the art would have readily recognized the desirability and advantages of using the server selection system taught by Masters for distributed multimedia information, to allow users of the load balancing system to view audio, video, and other types of information. Therefore, it would have been obvious for the HTTP responses taught by Masters to include multimedia information.

In considering claim 22, Masters further discloses computer readable program code for registering the received information to a service provider (col. 5, lines 49-53, wherein the service is necessarily provided by a service provider).

In considering claim 23, Masters further discloses that the information comprises an address (col. 7, lines 18-25, wherein the address is the address of the desired server).

In considering claim 24, Masters further discloses that the information comprises a unique ID (i.e. address of the server).

In considering claim 25, Masters further discloses that the unique ID further comprises a global user ID number ("user identification number," col. 5, lines 51-52).

In considering claim 26, Masters further discloses computer readable program code for receiving a registration number from a service provider, the registration number

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being provided by the viewer when requesting the content (col. 5, lines 49-52, "a service program could use a Cookie to send back registration information and free the client from retyping a user identification number for each connection to the service").

In considering claim 27, Masters further discloses that receiving the information includes gathering one of a local information and a viewer location (col. 7, lines 18-25, wherein the response with a cookie is from a local ISP, and therefore includes local information).

In considering claim 29, Masters further discloses that the information comprises a plurality of addresses (col. 8, lines 15-24, i.e. the array server address and the selected server address).

In considering claim 30, Masters further discloses that the plurality of addresses correspond to a plurality of servers (col. 8, lines 15-24, i.e. the array server address and the selected server address).

In considering claim 31, Masters further discloses code means for updating the information ("rewriting" the cookie; col. 11, lines 41-44).

In considering claim 33, Masters further discloses storing a server location at a viewer location (server URL is stored in the cookie, which is stored at the client; col. 5, lines 38-45).

In considering claim 34, Masters further discloses storing the information in a text file ("cookie") the information being given to a browser by the server (col. 7, line 63 – col. 8, line 8, wherein the cookie is inherently given to the browser in the HTTP response).

In considering claim 35, Masters further discloses sending the text file to the server when a page is requested from the server (col. 8, lines 16-19).

In considering claim 36, Masters further discloses that the text file is a cookie identifying the viewer ("cookie" with a "user identification number"; col. 5, lines 49-53).

In considering claim 38, Masters further discloses that the network is a LAN or WAN ("Internet").

In considering claim 39, Masters further discloses that the network is a network indicating a type of a connection ("TCP/IP"; col. 7, lines 5-6).

In considering claim 40, Masters further discloses the use of a dial up modem as the type of network connection ("telephone modem," col. 6, line 41).

In considering claim 41, Masters discloses an apparatus comprising:

A receiver to receive information to identify a plurality of servers selected by a viewer for routing information to the viewer (col. 7, lines 18-25; col. 8, lines 16-18, wherein the server array controller receives HTTP information and a cookie selected by a viewer for routing information to the viewer, and the information identifies a plurality of servers associated with the server array controller) and to register the plurality of servers with a service provider (col. 6, lines 57-65; col. 7, lines 29-37, wherein the plurality of node servers are registered with the server array controller such that the array controller the controller manages the network traffic among the nodes);

A selector coupled to the receiver to select a server of the plurality of servers based on the received information (col. 7, lines 28-37, wherein the user-supplied cookie selects a server to access); and

A transmitter coupled to the selector to transmit HTTP information from the selected server to the viewer via a network (col. 8, lines 25-28).

However, Masters remains silent regarding the type of HTTP information that is requested by the viewer, and thus does not explicitly state that the HTTP information constitutes multimedia information. Nonetheless, Masters does disclose that the distribution of multimedia information over the Internet is well known. Masters suggests that the load balancing features of the invention can be used for multimedia content

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(col. 1, lines 14-17, "Generally, it has proven difficult to reliably and efficiently load balance the demand for access to resources, e.g., a web-based application, email and streamed multimedia data, on a wide area network"). Given this knowledge, a person having ordinary skill in the art would have readily recognized the desirability and advantages of using the server selection system taught by Masters for distributed multimedia information, to allow users of the load balancing system to view audio, video, and other types of information. Therefore, it would have been obvious for the HTTP responses taught by Masters to include multimedia information.

In considering claim 43, Masters further discloses that the information comprises an address (col. 7, lines 18-25, wherein the address is the address of the desired server).

In considering claim 44, Masters further discloses that the information comprises a unique ID (i.e. address of the server).

In considering claim 45, Masters further discloses that the unique ID further comprises a global user ID number ("user identification number," col. 5, lines 51-52).

In considering claim 46, Masters further discloses that the registration number is provided by the viewer when requesting the information (col. 5, lines 49-55; col. 8, lines 17-23, "a service program could use a Cookie to send back registration information and

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free the client from retyping a user identification number for each connection to the service")

In considering claim 49, Masters further discloses that the information comprises information on a plurality of addresses (col. 8, lines 15-24, i.e. the array server address and the selected server address).

In considering claim 50, Masters further discloses that the plurality of addresses correspond to a plurality of servers (col. 8, lines 15-24, i.e. the array server address and the selected server address).

In considering claim 54, Masters further discloses storing the information in a text file ("cookie") the information being given to a browser by the server (col. 7, line 63 – col. 8, line 8, wherein the cookie is inherently given to the browser in the HTTP response).

In considering claim 55, Masters further discloses sending the text file to the server when a page is requested from the server (col. 8, lines 16-19).

In considering claim 56, Masters further discloses that the text file is a cookie identifying the viewer ("cookie" with a "user identification number"; col. 5, lines 49-53).

In considering claim 58, Masters further discloses that the network is a LAN or WAN ("Internet").

In considering claim 59, Masters further discloses that the network is a network indicating a type of a connection ("TCP/IP"; col. 7, lines 5-6).

In considering claim 60, Masters further discloses the use of a dial up modem as the type of network connection ("telephone modem," col. 6, line 41).

In considering claim 61, claim 61 presents a system comprising two computers and a network for performing the same steps as the apparatus described in claim 41. Therefore, claim 61 is rejected for the same reasons as claim 41.

Claims 63-66, 69-70, and 78-80 present the same steps as claims 43-46, 49-50, and 58-60 and are thus rejected for the same reasons.

5. Claims 8, 12, 28, 32, 52, 67, 68, and 72 are rejected under 35 U.S.C. 103(a) as being anticipated by Masters, in view of Hartman et al. (U.S. Patent No. 5,960,411, hereinafter "Hartman").

In considering claims 12, 32, 52, 67, and 72, Masters further discloses that the information comprises a user identification number (col. 5, lines 51-52), and describes storing it to avoid the need for the user to re-type information for every access request.

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However, Masters does not further elaborate on the type of information that could be stored in the cookie. Nonetheless, it is well known to store, in a cookie, information such as viewer geographical location, as taught by Hartman. Hartman discloses a system for accessing web sites for online shopping on the Internet, wherein a cookie stores information entered by a user to avoid the need to re-type the information (col. 6, lines 6-20), and wherein the information includes geographical information (col. 1, lines 52-65, "shipping" information). Given this teaching, a person having ordinary skill in the art would have readily recognized the desirability and advantages of including user geographical location information in the cookies taught by Masters, so that online shopping sites, such as the one taught by Hartman, could benefit from the Masters load balancing system.

In considering claim 8, 28, and 68, Hartman further discloses confirming the viewer location (Fig. 1A, col. 4, lines 59-65, "the server system provides to the client system a new Web page that confirms receipt of the single-action order").

Response to Arguments

In Applicant's request for reconsideration filed on April 6, 2004, Applicant makes the following single argument with respect to the Masters reference:

A prima facie case of anticipation cannot be established because Masters does not describe registering or even identifying servers for routing content (e.g. multimedia information) to the viewer.

Examiner respectfully disagrees with this argument for several reasons.

First, in light of the claim amendments, Examiner has only rejected claims 1, 2, 6, 7, 11, 13-16, and 18-20 as being anticipated by Masters. Therefore, Applicant's arguments only apply to these claims.

Second, none of claims 1, 2, 6, 7, 11, 13-16, or 18-20 actually include the language of "registering servers."

Third, Masters does disclose identifying servers for routing content to viewers in column 7, lines 18-25, and column 8, lines 16-18, wherein the server array controller receives HTTP information and a cookie selected by a viewer for routing information to the viewer, and the information identifies a plurality of servers associated with the server array controller; and Masters further discloses registering the plurality of servers for routing content to viewers in column 6, lines 57-65, and column 7, lines 29-37, wherein the plurality of node servers are registered with the server array controller such that the array controller manages the network traffic among the nodes.

Therefore, the rejections over Masters as they now stand are proper.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley Edelman whose telephone number is (703) 306-3041. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on (703) 305-4792. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

For all correspondences: (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

BE
June 14, 2004


FRANTZ B. JEAN
PRIMARY EXAMINER